

Chattel Securities and the Bills of Sale Act

Terms of Reference

In 1970, the Committee was asked to:

- (a) review the law dealing with security of title in relation to the merchandising of goods on credit; and
- (b) advise whether the *Bills of Sale Act 1899* (WA) should be amended or new legislation prepared to meet present day conditions.

Background of Reference

In the related Project No 35,¹ the Committee was asked to consider and report on the law relating to unauthorised disposal of goods by a bailee or hirer under a hire purchase agreement where the disposal takes place interstate. In 1972 the Standing Committee of Commonwealth and State Attorneys-General (SCAG) decided that the law on credit and chattel securities was to be reviewed on a uniform basis throughout Australia. The Committee's work on Project Nos 19 and 35 was deferred to await the outcome of the review. The Commission took over these, and all outstanding projects from the Committee, upon its inception in January 1973.²

In 1978, SCAG agreed that Victoria would introduce three Bills³ dealing with consumer transactions for the purpose of seeking public comment. It was intended that the Bills, if suitable, would be the basis for uniform legislation. In October 1978, the Commission, with the agreement of the Attorney-General, revived its study of the two projects in order to submit comments on those aspects of the Bills dealing with chattel securities.

The Bills attracted substantial public comment and criticism and when the Victorian Parliament rose for the state election in May 1979, the Bills lapsed and the intention to redraft them was announced. Accordingly, the Commission again deferred work on the projects. The Bills were revised and re-introduced as the model consumer credit legislation into the Victorian Parliament at the end of April 1981. At the same time, four Bills⁴ having a similar effect were introduced into the New South Wales Parliament.

Reference Withdrawn

In April 1983 the Minister for Consumer Affairs announced⁵ that the model consumer credit legislation would be introduced into the Western Australian Parliament.⁶ Since such legislation would substantially deal with matters covered by Project Nos 19 and 35, the Attorney-General withdrew both references.

1 Law Reform Commission of Western Australia, *Unauthorised Disposal of Goods Interstate: Right to Repossession*, Project No 35 (referred 1972, withdrawn 1983).

2 The Law Reform Committee of Western Australia was formally reconstituted as the Law Reform Commission of Western Australia on 19 January 1973.

3 Credit Bill 1978 (Vic); Goods (Sales and Leases) Bill 1978 (Vic); Chattel Securities Bill 1978 (Vic).

4 Consumer Credit Bill 1981 (NSW); Credit-Sale Agreements (Repeal) Bill 1981 (NSW); Hire-Purchase (Repeal) Bill 1981 (NSW); Moneylending (Repeal) Bill 1981 (NSW).

5 Arthur Tonkin, Minister for Consumer Affairs, Press Release, No M88/457 (22 April 1983).

6 Western Australia, *Parliamentary Debates*, Legislative Assembly, 21 November 1984, 4478-4492 (Mr M Trethowan): *Credit Act 1984* (WA); *Credit (Administration) Act 1984* (WA); *Commercial Tribunal Act 1984* (WA). See also the *Chattel Securities Act 1987* (WA).